

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RONALD L. BASKETT,

Plaintiff,

v.

AMANDA MIGCHELBRINK.

Defendant.

Case No. C06-5200RJB

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING CASE AS
FRIVOLOUS PURSUANT TO 28
U.S.C. § 1915A(b)(1)

This matter comes before the Court on consideration of the Report and Recommendation of the Magistrate Judge. Dkt. 9. The court has considered the relevant documents, including plaintiff's objections (Dkt. 10, and the remainder of the file herein).

The original complaint in this matter named Assistant Attorney General Amanda Migchelbrink as the only named defendant, but it is not possible to determine from the complaint the nature of the allegations. Dkt. 1.

On May 2, 2006, plaintiff filed a motion to amend the complaint. Dkt. 4. In that motion to amend, it appears that plaintiff intended to request that this court order Ms. Migchelbrink to refrain from arguing to the Washington Court of Appeals that his pending personal restraint petition be dismissed. Dkt. 4. On June 7, 2006, U.S. Magistrate Judge Karen L. Strombom issued an order declining to serve the original complaint and granting plaintiff leave to file an amended complaint. Dkt. 7. On June 28, 2006, plaintiff filed a response to the June 7, 2006 order, again contending that Ms. Migchelbrink should not be permitted to recommend to the state Court of Appeals that his personal restraint petition be dismissed. Dkt. 8.

On August 2, 2006, Judge Strombom issued a Report and Recommendation, recommending that the complaint be dismissed as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1), and counted as a strike pursuant to 28 U.S.C. § 1915(g). Dkt. 9.

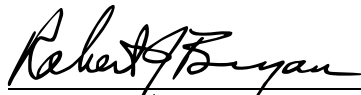
1 On August 11, 2006, plaintiff filed objections to the Report and Recommendation. Dkt. 10. In the
2 objections, plaintiff apparently requests that the court order Twin Rivers Correction Center to medicate
3 him and provide the same standard of care for treatment and rehabilitation that he was afforded at the VA
4 hospital; claims that he should not be required to work while in custody because of his disability; contends
5 that it is cruel and unusual punishment for him to be incarcerated rather than sent to a hospital; claims that
6 he was improperly removed from general population and sent to the infirmary at the special offenders unit;
7 contends that he has been retaliated against by the Department of Corrections; and states that he lives in
8 constant turmoil and fears for his safety. Dkt. 10. These allegations are conclusory and not supported by
9 factual basis. See *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980)(A plaintiff must set forth the
10 specific factual bases upon which he claims each defendant is liable); *Ivey v. Board of Regents*, 673 F.2d
11 266 (9th Cir. 1982)(Vague and conclusory allegations of official participation in a civil rights violations are
12 not sufficient to support a claim under § 1983). Moreover, these allegations do not show personal
13 participation on the part of the only named defendant in this case, Ms. Migchelbrink. Plaintiff has already
14 had the opportunity to file an amended complaint, and his pleadings, construed liberally, do not state a
15 claim for violation of his constitutional rights or federal statutory rights. The court should adopt the
16 Report and Recommendation and dismiss this case as frivolous, pursuant to 28 U.S.C. § 1915A(b)(1), and
17 counted as a strike pursuant to 28 U.S.C. § 1915(g).

18 Therefore, it is hereby

19 **ORDERED** that the Report and Recommendation of the Magistrate Judge (Dkt. 9), is
20 **ADOPTED**. The case is **DISMISSED AS FRIVOLOUS**, pursuant to 28 U.S.C. § 1915A(b)(1) and
21 counted as a strike pursuant to 28 U.S.C. § 1915(g).

22 The Clerk of the Court is directed to send uncertified copies of this Order to all counsel of record
23 and to any party appearing *pro se* at said party's last known address.

24 DATED this 5th day of September, 2006.

25 
26 Robert J. Bryan
27 United States District Judge
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